

October 31, 2003

To: NITC Commissioners

From: Anne Byers, Community IT Manager

Subject: Broadband Policy Recommendations from TechNet's *The State Broadband Index*

TechNet, a national network of more than 200 CEOs and senior executives in the high technology and biotechnology industries, recently released *The State Broadband Index*, an assessment of state policies impacting broadband deployment and demand. Nebraska is 17th overall and 10th in broadband policy. The report makes several recommendations. For your information, I've summarized the recommendations made in the report and included information on relevant state policies and efforts.

Policy Recommendations to Address Deployment Roadblocks

- States should adopt policies that standardize and expedite rights of way permitting.

Nebraska does not have policies which standardize or expedite rights of way permitting.

- States should limit the fees imposed for rights-of-way access.

Municipalities in Nebraska can only levy an occupation tax and a highway construction permit fee directly related to the costs incurred by the municipalities. Taxes or fees may not be collected by a municipality through in-kind services and municipalities may not require the provision of in-kind services as a condition of consent to the use of a public highway.

Supply-side Policy Recommendations

- States should adopt a broadband strategy and formal plan.

The NITC's Statewide Technology Plan does address broadband deployment. It is not, however, as comprehensive as the broadband strategies developed by some other states.

- States should assess their broadband status through a map or catalog of existing infrastructure.

The Nebraska Public Service Commission, in cooperation with the NTA, has begun collecting this information.

- States should allow municipalities to provide wholesale services with their own broadband networks.

LB 827, which was signed into law in 2001, allows municipalities to sell or lease dark fiber. The Nebraska State Supreme Court overturned sections of this law. The Telecommunications Act of 1996 states that states cannot prohibit any entity from providing telecommunications services. The Nebraska Supreme Court interpreted any entity to include municipalities. The Supreme Court also determined that only municipalities with home-rule charters (Omaha and Lincoln) had the authority to provide telecommunications services. Municipalities also need to give their utilities the express authority to provide telecommunications services before municipal utilities can apply to the Public Service Commission to provide telecommunications services. The U.S. Supreme Court will be hearing a case involving a similar Missouri law this year.

- States should encourage broadband investment through innovative supply-side services (acting as an anchor tenant by procuring a state network).

The State of Nebraska is in the process of building a state network and would act as an anchor tenant.

- States should consider financial incentives for broadband deployment, in particular to underserved communities.

The Nebraska Internet Enhancement Fund administered by the Public Service Commission was created to provide financial incentives for broadband deployment in underserved communities. The Public Service Commission is planning to open a competitive grant round this year.

Demand-side Policy Recommendations

- States should adopt initiatives that provide incentives for public sector and private sector users to access broadband networks.

The Public Service Commission has recently approved providing support to small, rural hospitals in the state.

- States should actively encourage broadband usage by citizens through e-government initiatives.

At this time, most e-government applications do not require broadband. Legislative proceedings in the Unicameral are videostreamed.

- States should encourage government usage of broadband applications (includes distance learning and telehealth).

Distance education is widely used in K-12 schools in Nebraska. Efforts are currently underway to expand distance learning to additional schools and to develop a statewide distance learning network. Efforts are also underway to create a statewide telehealth network.

- States should consider providing financial support that encourages the development of broadband applications that improve government services, or support next-generation technologies.

Nebraska is not currently providing financial support that encourages the development of broadband applications that improve government services. The University of Nebraska is supporting Internet 2, which focuses on the broadband applications for education and research.

The State Broadband Index is available at
http://www.technet.org/resources/State_Broadband_Index.pdf .